

ORIGINAL



0000166058

Steve Wene, State Bar No. 019630
MOYES SELLERS & HENDRICKS LTD.
1850 N. Central Ave., Suite 1100
Phoenix, Arizona 85004
Telephone: 602-604-2141
e-mail: swene@law-msh.com

RECEIVED

2015 SEP -4 P 4:16

AZ CORP COMMISSION
DOCKET CONTROL

BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

SUSAN BITTER SMITH, CHAIRMAN
BOB STUMP
BOB BURNS
TOM FORESE
DOUG LITTLE

Arizona Corporation Commission

DOCKETED

SEP 04 2015

DOCKETED BY

Btu

IN THE MATTER OF THE APPLICATION
OF TIERRA BUENA WATER COMPANY,
INC. FOR APPROVAL OF A RATE
INCREASE.

Docket No. W-02076A-15-0135

Docket No. W-02076A-15-0024

IN THE MATTER OF THE APPLICATION
OF TIERRA BUENA WATER COMPANY,
INC. FOR AUTHORITY TO INCUR LONG-
TERM DEBT.

RESPONSE TO STAFF REPORT

Tierra Buena Water Company, Inc. ("Company" or "Tierra Buena") hereby files
its response to the Staff Report in this matter.

PRELIMINARY STATEMENT

The Company and Staff agree on most issues, and the Company appreciates
Staff's diligence. When compiling and filing this rate case, the Company and its

1 consultants paid close attention to the recent Commission trends and orders as well as
2 positions held by Staff. This Commission now recognizes that historically small water
3 companies have been underfunded. Accordingly, this Commission's policy to treat
4 small water companies fairly and provide reasonable rates is clear. Recent
5 recommended opinions and orders ("ROOs") have also recognized this development.
6 Unfortunately, Staff seems to be following the policies of past Commissions and has not
7 taken this Commission's lead.
8

10 This is evident in rate design, where the Commission is moving to derive more
11 revenue from the monthly minimum and stabilize company revenue. Yet Staff has
12 designed rates so less revenue is derived from the monthly minimum. Similarly, the
13 Commission has been providing companies Tierra Buena's size around \$20,000 of
14 operating income. Yet Staff is proposing only \$10,000 here. Another example relates to
15 Best Management Practices ("BMPs"). The Commission is not requiring small
16 companies to adopt BMPs. Yet, Staff continually asserts they should be applied here
17 and in other cases. Accordingly, the Company urges this Court to adopt its positions in
18 this rate case, which are clearly more consistent with the current Commission positions
19 on the matters at issue here.
20

23 **1.0 RATE DESIGN**

24 **1.1 Revenue Split Between Monthly Minimum and Commodity Charges**

26 Recently, this Commission has squarely addressed the issue of rate design and
27 clearly wants rate designs that balance water conservation and revenue stability. In
28

1 straightforward terms, this means roughly a 50/50 split between the monthly minimum
2 and commodity charges.

3
4 In the Park Water rate case, for example, the company proposed a 50/50 split
5 between monthly minimum and commodity revenues. In contrast, Staff proposed a
6 44/66 split. Faced with these two options, the Commission sided with the company and
7 adopted a rate design that generated 50% of revenues from the monthly minimum and
8 50% of revenues from commodity charges. The Commission explained:

9
10 We believe a rate design that would allow [the company] to generate 50
11 percent of its authorized revenue from the monthly usage charge and 50
12 percent from commodity charges provides a steady, reliable revenue
13 stream, but yet still allows customers to lower their water bills through
conservation.

14 *See Decision 75046*, at p. 8, ¶ 37.

15
16 The Greenthaven Water Company rate case reaffirmed the Commission's
17 position. In that case, the company proposed a 50/50 split between monthly minimum
18 and commodity revenues. In contrast, Staff proposed a 33/67 split between monthly
19 minimum and commodity revenues. *See* Docket No. W-02325A-14-0322, Response to
20 Staff Report, at p. 3-4 (Apr. 7, 2015). The ROO adopted Staff's 33/67 split. The
21 company responded by explaining that as customers conserve water, the company will
22 recover less money than estimated, causing financial distress. *See* Decision 75161 at p.
23 8, ¶ 40. Addressing this specific issue, Chairman Bitter Smith filed an amendment
24 proposing that the Commission adopt the 50/50 split. Based upon her amendment, the
25 Commission unanimously decided:
26
27
28

1 [w]e believe a rate design that would allow the Company to generate 48
2 percent of its authorized revenues from the monthly usage charge and 52
3 percent from the commodity charges provides a steady, reliable revenue
4 stream, but yes still allows customers to lower their water bills through
conservation.

5 See Decision 75161 at p. 10, ¶ 44.

6 Here, Tierra Buena has proposed roughly a 40/60 split between monthly
7 minimum and commodity revenues. See Attachment 1. The reason Tierra Buena did
8 not propose a 50/50 split is because its rate application was filed before the
9 Commission's policy was clear. Nevertheless, the Company believes a 40/60 split will
10 suffice.
11

12 But for some reason, Staff is trending away from the Commission's clear
13 directive. Again, in the Park rate case, Staff proposed 44% monthly minimum revenues
14 and that was rejected in favor of a 50% minimum. Then in the Greentown rate case,
15 Staff proposed a 40% minimum and that was rejected in favor of a 48% minimum. Now
16 Staff is moving downward again and proposing 30% monthly minimum revenues. See
17 Attachment 2. Common sense dictates that Staff should be moving its monthly
18 minimums up, not down. Staff should try to come close to the 50/50 split, or at least
19 agree with the Company's proposed 40/60 split. But without any explanation other than
20 the normal banalities, Staff defied the trend and designed rates that rely heavily upon
21 commodity charges. As the Commission has already recognized, this leaves the
22 Company without revenue stability. Clearly, the recommendation in this case should
23 follow the Commission's lead and adopt either the Company's 40/60 split or the
24 Commission-approved 50/50 split.
25
26
27
28

1.2 Meter Size Issue

Another issue relates to the meter size multipliers typically used in ratemaking. As we all know, there are industry standards that rate designers generally apply. These work in almost all cases, but Tierra Buena is an exception. All of Tierra Buena's 127 customers have 1-inch meters. All of the rates and revenue projections are based upon the premise that nothing will change. However, the Company has already received several inquiries about downsizing meters. The customers are pursuing this course of action to reduce monthly minimum charges. Under Staff's proposal, by simply changing their meter size, customers using 18,322 gallons of water per month could reduce their bill by 33%, from \$51.14 to \$39.74.

If just a few customers reduced their meter size, the Company would be plunged into financial disaster. Due to this unique situation, the Company now proposes that the monthly minimum for the 1-inch meter and smaller all be the same. All monthly minimum charges for the 1-inch meters and smaller will be \$28.75. Tierra Buena understands this does not comport with normal rate design, but in this case it makes sense.

2.1 OPERATING INCOME

The Company is proposing an operating income of \$23,765. Under the Company's proposal, the typical residential water user will pay \$72.63 for 18,322 gallons per month. Of course, this assumes that the customers will not conserve any water, which we all know will occur.

1 Meanwhile, Staff is proposing an operating income of \$10,000. Staff shifted
2 much of the rate increase to the extremely high volume water users. Accordingly, the
3 typical residential water user using an incredible 18,322 gallons of water in a month will
4 pay only \$51.14 per month. This \$3.00 increase is just another example of Staff moving
5 away from the Commission's trend to offer small water companies revenue stability.
6

7 The Dragoon Water rate case decisions illustrate this point. In many respects,
8 Dragoon is very similar to Tierra Buena. Dragoon has 121 customers, just 6 fewer than
9 Tierra Buena. In that case, Staff recommended that the typical monthly bill for a
10 residential customer with a 5/8 x 3/4 -inch meter using only 3,500 gallons per month be
11 increased by \$7.05 to \$51.50 per month. *See* Decision No. 75037, at p. 13, ¶ 50. Staff
12 proposed an operating income of \$19,034. The Commission actually increased the rates
13 by \$9.98 to \$54.45 per month for that same water user and raised the operating income
14 to \$22,680. *See id.*, at p. 18, ¶ 66.
15
16

17 The Company understands rate-making is not done by comparing companies'
18 rates, but that is not the intent here. Instead, this demonstrates that the Company's
19 proposed operating income of \$23,765 is reasonable when compared to the \$22,680 the
20 Commission approved for Dragoon and the \$19,034 recommended by Staff in that case.
21 It further illustrates that Staff's proposed operating income of \$10,000 for Tierra Buena
22 is not reasonable. Thus, the Court should adopt Tierra Buena's proposed operating
23 income of \$23,635.
24
25
26
27
28

1 **3.0 MISCELLANEOUS SERVICE CHARGES**

2 Tierra Buena's service charges are essentially the same as those recently
3 approved by the Commission for Valley Utilities. *See* Decision No. 73913 (June 27,
4 2013). For some reason, Staff wants Tierra Buena's charges for delinquent
5 reconnection, meter testing, and other services to be lower. For instance, while Valley
6 Utilities can charge \$40.00 for an after-hours service call, Staff is asserting Tierra Buena
7 should only be able to charge \$35.00 for the same service call at the same time. To be
8 clear, Tierra Buena supports the after-hours additional fee (and the application form
9 should be revised to make this option clear for small utilities). However, the Company
10 does not understand why Staff believes it should be able to receive less money than a
11 large company for the same exact service. Thus, Tierra Buena urges the Court to take
12 the same approach as the Company, follow the Commission's lead, and adopt the
13 Commission-approved service charges proposed by Tierra Buena.

14 **4.0 BEST MANAGEMENT PRACTICES.**

15 As the Commission recently noted, "BMPs are a creation of ADWR.... Recent
16 Commission Decisions have opted not to adopt BMPs for companies that have objected
17 to their imposition." *See* Commission Decision No. 74900. In spite of the current
18 Commission policy regarding BMPs, a matter of practice Staff continues to recommend
19 water companies adopt either three or five BMPs. This case is no exception.

20 The Company opposes this recommendation. Tierra Buena is within the Phoenix
21 Active Management Area. Consequently, it is already subject to ADWR's Third
22 Management Plan, which is a comprehensive legal framework designed to conserve
23

1 water and implement sound water management strategies. There is no need to subject
2 this small water company to duplicative regulatory requirements.

3 4 **5.0 FINANCING**

5 Due to the Davis-Bacon Act and American Steel Act provisions, the projected
6 cost of the project has increased. As the Commission is well aware, WIFA loans require
7 the borrower to comply with these two sets of federal laws. The Davis-Bacon Act
8 requires the recipient to make sure all laborers and mechanics working on a project are
9 paid "prevailing wages". As a rule of thumb, "prevailing wages" are about 25% higher
10 than what is normally charged. The American Iron and Steel provisions require
11 recipients to use only iron and steel products produced in the United States, which are
12 usually better quality, but also costs about 20% more.

13
14
15 Fortunately, Tierra Buena factored much of this cost into its original estimate.
16 However, the Company needs to revise its financing request only slightly, from
17 \$899,506 to \$904,573. The Company has amended the documents necessary to make
18 this adjustment with WIFA and will file additional documentation to support this
19 adjustment with the Commission if deemed necessary.

20 21 **6.0 COMPLIANCE DEADLINES**

22 Staff proposed two compliance deadlines that should be adjusted. First, the
23 Company would be required to file its surcharge report on April 15 each year. This will
24 require bookkeeping and accounting work. As we all know, April 15 is the tax filing
25 deadline and bookkeepers and accountants are usually very busy during this time.

1 Therefore, the Company suggests that this report filing deadline be moved to April 30
2 each year.

3
4 Second, Staff recommends that the Company file Approvals of Construction by
5 no later than December 31, 2016. Knowing this rate case will not be finished for at least
6 90 days, and WIFA takes about 4 months to close loans, December 31, 2016 does not
7 give the Company enough time to finish the project. The compliance deadline for
8 finishing the project should be moved to June 30, 2017.

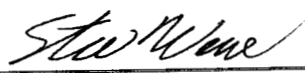
10 **7.0 POTENTIAL SANCTIONS**

11 For some reason, Staff recommends that the Company be “put on notice” that it
12 should follow NARUC, and if the Company makes an error, Staff will recommend
13 sanctions. Staff is being aggressive and threatening without cause. Staff complained
14 that the Company did not make many retirements, but admitted it did not make one
15 adjustment relating to this issue. Staff noted that the Company has a large negative rate
16 base, so adjusting the retirements would have no impact on rates. In other words, it is
17 irrelevant. To be clear, the Company’s current owners do follow NARUC. Yet,
18 mistakes sometimes happen and disagreements how to book plant occur all of the time.
19 So for Staff to lay the foundation for sanctioning the Company for honest mistakes or
20 not doing work that Staff itself deems irrelevant makes no sense. This recommendation
21 that the Company should be put on notice that it can be sanctioned is unnecessary,
22 improper, and should be rejected.

23
24
25
26
27 DATED this 4th day of September, 2015.
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

MOYES SELLERS & HENDRICKS


Steve Wene

Original and **13** copies filed this
4th day of September, 2015, with:

Docket Control
Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007



EXHIBIT 1

Tierra Buena Water Company
Revenue Breakdown Summary
Proposed Rates

<u>Meter Size</u>	<u>Class</u>	<u>Present Monthly Mins</u>	<u>Commodity First Tier</u>	<u>Commodity Second Tier</u>	<u>Commodity Third Tier</u>	<u>Total</u>
1 Inch	Residential	\$ 43,729	\$ 21,024	\$ 26,577	\$ 26,834	\$ 118,163
1 Inch	Commercial	\$ 345	\$ 181	\$ 86	\$ -	\$ 612

TOTALS	\$ 44,074	\$ 21,204	\$ 26,663	\$ 26,834	\$ 118,774
Percent of Total	37.11%	17.85%	22.45%	22.59%	100.00%
Cummulative %	37.11%	54.96%	77.41%	100.00%	

EXHIBIT 2

Tierra Buena Water Company
Revenue Breakdown Summary
Staff Proposed Rates

<u>Meter Size</u>	<u>Class</u>	<u>Present Monthly Mins</u>	<u>Commodity First Tier</u>	<u>Commodity Second Tier</u>	<u>Commodity Third Tier</u>	<u>Total</u>
1 Inch	Residential	\$ 28,899	\$ 19,112	\$ 24,723	\$ 25,517	\$ 98,251
1 Inch	Commercial	\$ 228	\$ 168	\$ 82	\$ -	\$ 478

TOTALS	\$ 29,127	\$ 19,280	\$ 24,804	\$ 25,517	\$ 98,729
Percent of Total	29.50%	19.53%	25.12%	25.85%	100.00%
Cummulative %	29.50%	49.03%	74.15%	100.00%	